***THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY**

W.P.No. 5320 of 2005

% 23-01-2006

Yerra Venkateshwarulu

..... Petitioner

Vs.

$ The Government of Andhra Pradesh,
rep by Secretary, Revenue Department,
Secretariat, Hyderabad and others.

… Respondents

! Counsel for the petitioner : Sri K.Ananth Rao

^ Counsel for Respondent Nos.1 to 4: G.P.for Revenue

Counsel for Respondent No.5: G.P. for Social Welfare

<Gist :

>Head Note :

? Cases referred:

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No. 5320 of 2005

Dated : 23.01.2006

Between:

Yerra Venkateshwarulu S/o Komaraiah
R/o Bayyaram Village, Bayyaram Mandal,

Khammam District.

..... PETITIONER

AND

The Government of Andhra Pradesh,
rep by Secretary, Revenue Department,
Secretariat, Hyderabad and others.

.....RESPONDENTS

ORDER:

This case has got a long and chequered career. The petitioner purchased an extent of Ac.3.20 guntas of land in Sy.No.172/A of Bayyaram Village, from one Merugu Mallaiah, S/o. Ilaiah through an unregistered sale deed dated 14.02.1964. On a report submitted by the Special Deputy Tahsildar, Yellandu, the Special Deputy Collector, Palvancha, third respondent herein, initiated proceedings under the A.P (Scheduled Area) Land Transfer Regulations, 1959, read with Regulation 1/70 (for short "Regulations"). One Mr. Puli Perumalla was shown as the petitioner. Since Perumalla died during the pendency of the said proceedings, his grandson, by name Puli Ramulu, was shown as his legal representative.

On receipt of notice from the third respondent, the petitioner appeared and put forward his defence. He pleaded that the sale in his favour is not affected by the provisions of the Regulations, since they came into force subsequent to the sale in his favour. Other grounds were also pleaded. The third respondent passed an order on 10.10.1979, holding that the sale in favour of the petitioner is in violation of Section 47 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short "the Tenancy Act").

Aggrieved thereby, the petitioner preferred an appeal before the Agent to Government/District Collector, Khammam, second respondent herein, being CMA No. 95 of 1979. The appeal was dismissed on 18.03.1987. Thereafter, the petitioner filed W.P.No.9701 of 1987 before this Court. It was admitted and interim stay was granted. The writ petition was disposed of on 10.07.1990, leaving it open to the petitioner to pursue the remedy of revision. Status quo was directed to be maintained pending the disposal of the revision. The petitioner states that he preferred a revision before the Government of Andhra Pradesh, represented by its Secretary, Revenue Department. He states that the revision was neither rejected nor returned, and he was under the impression that it is still pending. On realising that the revision ought to have been preferred before the Secretary, Social Welfare Department, such a revision has been preferred before the fifth respondent herein, on 29.07.2005, with an application to condone the delay. His grievance is that the

Mandal Revenue Officer, Bayyaram, fourth respondent herein, is taking steps in the meanwhile, to dispossess him.

Heard the learned counsel for the petitioner and the learned Government Pleader for Social Welfare.

The petitioner is facing the proceedings for the past two and half decades. As of now, a fresh revision is presented before the fifth respondent with an application to condone the delay of about 15 years. This Court feels that it is not in the interest of either the petitioner or the Social Welfare Department that the proceedings be pursued with the fifth respondent in the present form and condition. If the said proceedings are to be pursued with the fifth respondent, first of all a direction has to be issued to consider the application for condonation of delay. Thereafter, the petitioner has to face another round of litigation, obviously before this Court. By the time the matter is taken up on merits, it would be another half a decade, if the past experience is any guidance. Therefore, this Court intends to undertake to adjudicate the matter on merits, having regard to the exceptional circumstances.

As observed earlier, the proceedings initiated by the third respondent against the petitioner are *suo-motu,* in nature. The only basis for him to proceed with the matter, was the report submitted by the Special Deputy Tahsildar. A perusal of the order passed by the third respondent discloses that the grandson of the so-called assignee was not able to furnish any material or documents. The only statement that emerged from him was that his grandfather brought the land under cultivation. The petitioner, on the other hand, placed before the third respondent, the patta granted in favour of his vendor as well as a copy of the sale deed.

The power of the third respondent under the Regulations is not wholesome, but is restricted to the one, of examining whether the transfer of land in a scheduled area in favour of a Tribal or non-Tribal, is violative of the Regulations. He has no authority to deal with other aspects.

The third respondent has set aside the sale in favour of the petitioner only on

the ground that it was not preceded by permission from Tahsildar, under Section 47 of the Tenancy Act. The relevant portion reads as under:

> "This sale is obviously invalid under the law since it is not supported by the permission of the Tahsildar under Section 47 of the Hyderabad Tenancy and Agricultural Lands Act, 1950 nor validation certificate under Section 50-B though the A.P.S (LTR) I of 1959 came into force in this area from 1.12.1963, the possession given to the respondent in pursuance of the agreement of sale without obtaining sale permission under Section 47 of the Hyderabad Tenancy Act, 1950 was unlawful and Section 53-A of T.P. Act would not safeguard that possession."

From the above, it is evident that the third respondent did not record any finding that the sale in favour of the petitioner is in violation of any of the provisions of the Regulations. The questions, as to whether the sale needed any permission from the Tahsildar under Section 47 of the Tenancy Act or whether the petitioner was entitled for the benefit under Section 53-A of the Transfer of Property Act, were totally outside the scope and ambit of the powers of the third respondent. The appellate authority has simply affirmed the findings recorded by the third respondent.

Once it has emerged that the third respondent has exceeded his jurisdiction in setting aside the sale in favour of the petitioner, the order passed by him cannot be sustained. On that short ground, the writ petition is allowed and the order passed by the third respondent, dated 10.10.1979, and the one passed by the second respondent on 18.03.1987, in C.M.A.No. 95 of 1979, are set aside. It hardly needs any emphasis that there is no time limit for initiating any proceedings by the Special Deputy Tahsildar. In case he notices any violation or infraction of the provisions of the Regulations vis-à-vis the purchase made by the petitioner, it shall be open to him to initiate necessary proceedings, duly indicating the nature of violation, in clear terms.

With the above observations, the writ petition is allowed. There shall be no order as to costs.

23.01.2006

Note: L.R. copy to be marked.

(B/o)

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